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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,942	09/18/2000	Mireille Maubru	05725.0290-01	4634

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EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

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DATE MAILED: 07/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/663,942

Applicant(s)

MAUBRU, MIREILLE

Examiner

Eisa B Elhilo

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period of Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/08/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13 and 15-27 is/are rejected.
- 7) ☒ Claim(s) 11, 12 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1 This action is responsive to the amendment filed on February 08,2002.

2 To clear the record, the examiner would like to point out that the translation copy of the Japanese Patent No. 03220114 to Kanji Narazaki is used by the Examiner in the rejection of art and also used by the applicant in response to the rejection of record. The translation copy of the Japanese Patent No. 1-213,221 to Godo is not available and is not used in the previous office action dated on 10/03,2001. Therefore, in this action the examiner address the translation copy of the Japanese Patent No. 03220114 in response to the applicant's argument

3 The rejection of claims 1-10 under 35 U.S.C. 102(b) as being anticipated by Faust et al. (US' 3,930,865), is withdrawn in view of applicant's remarks and also after further consideration of the teaching of the reference that used as prior art of record in the rejection of the instant claims.

4 The rejection of claims 1-27 under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (US' 4,509,949), is withdrawn in view of applicant's remarks and also after further consideration of the teaching of the reference that used as prior art of record in the rejection of the instant claims.

5 The rejection of claims 1-10, 13 and 15-27 under 35 U.S.C. 103(a) as being unpatentable over Kanji Narazaki et al. (JP' 03220114) (English translation copy) in view of Yashihara et al. (US' 5,102,655), is maintained for the reasons set forth in the previous office action in paper No. 5, dated 10/03/01.

Allowable Subject Matter

7 Claims 11-12 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art of record (US' 5,102,655) alone or in combination does not teach, disclose or suggest a hair dyeing composition comprising at least one cross-linked polymer containing acrylic residue units of the claimed formula and at least one species of cationic azo dyes and cationic anthraquinone dyes. Accordingly, the subject matter of claims 11-12 and 14 would not have been obvious to one of the ordinary skill in the art of hair dyeing formulation.

Response to Applicant's Arguments

8 Applicant's arguments filed on 2/8/2002 have been fully considered but they are not persuasive.

With respect to rejection based upon Kanji in view of Yoshihara, Applicant argues that the references are not properly combinable and that not all of the claimed elements are taught by this reference combination.

The examiner respectfully disagrees with the above arguments Kanji's reference teaches a hair dyeing composition comprising pigments as the coloring agents such as carbon black in the claimed colorant amounts (see page 17, lines 8-17) and cross-linked polymers, such as methylacrylic acid unit and polymerizable monomer unit such as methacrylates with alkyl ester of acrylic acid (see page 5, lines 1-8, and page 8, lines 12-16) which fall within the scope of the claimed cross-linked polymers. Yoshihara's reference teaches in analogous art a hair dyeing composition-comprising hair dyeing components such as acid dyes and pigments. Further, the

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reference discloses that there is no specific limitation as to the dyes such as azo dye, oxazine dye, anthraquinone dye or pigments such as carbon black (see col. 4, lines 38-47). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the primary reference by substituting the carbon black pigment as a coloring agent with the acidic dyes, azo dyes or anthraquinone dyes as taught by Yoshihara to make such a dyeing composition. Such modification would be obvious because Yoshihara teaches the equivalence between the dyes such as acid dyes, azo dyes or anthraquinone dyes and the pigments such as carbon black and thus suggest that these can be used in alternative. Also with regard to claims 10 and 13, it would have been obvious to one of ordinary skill in the art to incorporate the acidic azo dye of claim 10, and the acidic anthraquinone dyes of claim 13, to make such a dyeing composition because these dyes fall within the scope of the generic dyes of acidic azo dyes and acidic anthraquinone dyes that taught by Yoshihara. Furthermore, the two prior art are analogous because they teach both similar hair dyeing compositions. Therefore, the combination is proper.

Conclusion

9 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Elhilo

July 26, 2002



GREGORY DELCOTTO
PRIMARY EXAMINER

